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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|--|-------------|----------------------|-------------------------------|------------------|
| 10/665,100 | 09/18/2003 | Takahiro Matsumoto | 1232-5157 | 6139 |
| 27123 | 7590 | 01/30/2006 | | |
| MORGAN & FINNEGAN, L.L.P. 3 WORLD FINANCIAL CENTER NEW YORK, NY 10281-2101 | | | EXAMINER EVERHART, CARIDAD | |
| | | | ART UNIT 2891 | PAPER NUMBER |

DATE MAILED: 01/30/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | | |
|------------------------------|------------------------|---------------------|--|
| Office Action Summary | Application No. | Applicant(s) | |
| | 10/665,100 | MATSUMOTO ET AL. | |
| | Examiner | Art Unit | |
| | Caridad M. Everhart | 2891 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on 22 November 2005.
 2a) This action is **FINAL**. 2b) This action is non-final.
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 24-37 is/are pending in the application.
 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
 5) Claim(s) _____ is/are allowed.
 6) Claim(s) 24-37 is/are rejected.
 7) Claim(s) _____ is/are objected to.
 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.
 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) Notice of References Cited (PTO-892)
 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
 Paper No(s)/Mail Date 8/16/04

4) Interview Summary (PTO-413)
 Paper No(s)/Mail Date. _____.
 5) Notice of Informal Patent Application (PTO-152)
 6) Other: _____

Response to Arguments

Applicant has argued that applicant's method enables high-precision detection without detracting from the precision of alignment mark detection even in a case where there is an error in the position of an alignment mark formed on a wafer. Applicant has further argued that Kikuchi discloses a method for calculating distortion and degree of the nonlinearity. These arguments are respectfully found to be not persuasive for the following reasons. Kikuchi discloses that the method taught by Kikuchi enables high-precision detection without detracting from the precision of alignment mark detection even in a case where there is an error in the position of an alignment mark formed on a wafer in paragraph 0343 in which it is disclosed that the distortion may be evaluated by detecting position deviation amounts of the alignment marks while position each shot area on the wafer. With respect to the assertion that Kikuchi discloses a method for calculating distortion and degree of nonlinearity, the calculation of distortion and degree of nonlinearity are involved as indicated in the rejections made in the last Office Action in the calculation of the position and the correction of the position determinations. Applicant's amendment, which applicant has stated is for further clarification, does not overcome the rejections for the following reasons. With respect to sample regions selected, it is disclosed by Kikuchi in paragraph 0007 that some shot areas are selected for detection, which satisfies the limitation of selected sample regions. The limitation of each of the sample regions is positioned so that the image of the mark is detected, this would occur in the global method (paragraph 0011) which determines the position of each shot area. The limitation of based on positions obtained in said processing step

and the combination of the determinations of the sample regions is satisfied by the disclosure of the method of Kikuchi that the global method determination results are used in the sample method in which some of the areas are sampled, which was detailed in the citations from Kikuchi made in the rejections in the last Office Action. The amendment of claim 31 does not add apparatus limitations, and therefore the rejections of the apparatus claims has not been overcome.

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claim Rejections - 35 USC § 102

Claims 24-26, 29, and 30 are rejected under 35 U.S.C. 102(b) as being anticipated by Kikkuchi (US 20020042664A1).
Kikuchi discloses a detection step of detecting an image of a plurality of areas of a wafer(paragraph 0006 discloses that an alignment mark is provided in a plurality of shot areas of a wafer). There is a processing step of processing using a plurality of methods(in paragraph 0096 is described a subroutine 268; in paragraph 0104 is described a subroutine 270). Expressions are obtained for both methods(paragraph 0240 describes that expressions are obtained for algorithm 268; paragraph 0237 describes that statistical computations are carried out in subroutine 270). Positions are obtained by these algorithms, as this is the shot data(paragraph 0006). There is an

evaluation step in which the method in which the position error is minimized is chosen(paragraph 0254 describes that subroutine 268 or 270 is chosen). The error in the position is the difference between a position of a mark obtained by the signal processing step and that obtained by a calculated function(paragraph 0317; paragraph 0197 gives a definition of the deviation or error in a coordinate). A template would be the curve which corresponds to the function, so therefore Kikuchi teaches a template, although the word template is not used. The functions obtained by the two different evaluation methods would correspond to more than one template, or different templates. The selection of one of the methods is made with respect to each of the shot areas (paragraph 0242 states that the selection of the method of calculation which will minimize errors is made for each shot ; paragraph 0335 states that the calculations are carried out for each shot area). Because the shot areas can include alignment marks, the selection step can select one of the methods with respect to each of the marks.

Claim Rejections - 35 USC § 103

Claims 27, and 31-37 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kikuchi as applied to claim 24 above and further in view of Nishi(US 4,962,318).

Kikuchi is silent with respect to window widths, local maximum slopes, and the details of the apparatus such as the first and second processing units.

With respect to window widths, it seems from applicant's specification that the window widths are related to the coefficients of the expressions obtained by the evaluation methods, which would be within the ordinary skill of the art to obtain mathematical relationships between the parameters of the process and the coefficients for the expressions.

With respect to the slope being used in the calculations, Kikuchi discloses that the equations of the positions in terms of the x and the y components of the positions are calculated and stored in terms of Fourier series equations(paragraphs 0196, 0198, 0239, and 0285), which it is known can be related to the slope, so that it would have been obvious to one of ordinary skill in the art at the time of the invention to have used the maximum slope calculations because Kikuchi uses maximum in Fourier series coefficients, which can be related to slope Kikuchi further discloses the wafer stage which can be positioned (paragraphs 0122 and 0125). Because these expressions would contain nonlinearities, the graphs of these expressions would contain local maxima or minima, for which one could obtain the slopes, and because these expressions are different and were obtained by different methods, they would have different slopes.

With respect to first and second processing units, Kikuchi discloses a CPU(paragraph 0096), and also the apparatus disclosed by Nishi is incorporated by reference by Kikuchi(paragraph 0135). The apparatus disclosed by Nishi has an operational unit which determines the position of the shot areas(col. 16,lines 35-41). These values can be provided to a controller, which in the case of the apparatus taught by Kikuchi would

be the CPU. Nishi further teaches a second unit(col. 18, lines 64-67 and col. 19, lines 1-9) which provides measured positions and supplies data to the memory, which in the case of the apparatus taught by Kikuchi would be the CPU. The CPU would then evaluate the data by the methods discussed in the rejection above.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Caridad M. Everhart whose telephone number is 571-272-1892. The examiner can normally be reached on Monday through Fridays 7:30-4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, B. Baumeister can be reached on 571-272-1722. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

C. Everhart
C. EVERHART
PRIMARY EXAMINER

C. Everhart
1-24-2006